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APR 26 2017
U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

5:17MJ 1102

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	No. 4:17CR00189 RWS/PLC
U.S. TECHNOLOGY CORPORATION, MISSOURI GREEN MATERIALS, RAYMOND WILLIAMS, DARYL DUNCAN, and PENNY DUNCAN,	)	
Defendants.	)	

INDICTMENT

The Grand Jury Charges:

1. Defendant, **U.S. Technology Corporation ("UST")**, was an active Ohio corporation, that leased blasting materials to various customers for use in removal of paint and other materials during all relevant dates in this indictment.

2. Defendant **RAYMOND WILLIAMS** was the president of **UST** during all relevant dates in this indictment.

3. Defendant, **Missouri Green Materials, LLC., ("MGM")** was an active Missouri Limited Liability Company, located at 7627 Zero Rd., Berger, Missouri during all relevant dates in this indictment.

4. Defendant **PENNY DUNCAN** was the owner of **MGM** during all relevant dates in this indictment.

5. Defendant **DARYL DUNCAN** was the general manager of **MGM** during all relevant dates in this indictment.

The Hazardous Waste

6. Customers of **UST** were often United States military bases and agencies, using the blasting materials to remove paint from things such as tanks and planes. The paint often contained heavy

metals used as pigments to color the paint, which included cadmium, chromium and lead. The blasting materials often resembled small beads in appearance, but during the blasting process, the materials were broken down into smaller pieces to resemble a powder-like consistency. During this process, heavy metals from the paint became imbedded in the materials. Once the customer used all of the blasting material, the powder-like remains were returned to UST.

7. The powder-like remains are deemed hazardous waste and are subject to the regulations under the Resource Conservation and Recovery Act ("RCRA"). However, RCRA provides that if 75% of this material is recycled within one calendar year, the material is no longer considered hazardous waste and is not subject to the regulations of RCRA. Since UST customers lease the blasting materials, the onus is on UST to recycle it.

8. In 2000, UST hired Hydromex, a recycling company, based in Mississippi, as a subcontractor to recycle hazardous waste from paint removal materials at its Yazoo City, Mississippi plant.

9. However, Hydromex never recycled the hazardous waste. In December 2006, the former president of Hydromex was indicted, and later pleaded guilty, in federal court for his role in a scheme to defraud the federal government by dumping the hazardous waste on Hydromex's grounds and falsely claiming that it was recycled.

10. In 2003, pursuant to an Agreed Order with the Mississippi Commission on Environmental Quality, UST, through **RAYMOND WILLIAMS**, agreed to remove the illegally stored and disposed hazardous waste from the Hydromex facility in Yazoo City, Mississippi.

11. In February 2011, the Agreed Order with the Missouri Commission on Environmental Quality was amended. Pursuant to the Amendment, UST, through **RAYMOND WILLIAMS**, reaffirmed its agreement to remove the illegally stored and disposed hazardous waste from the Hyrdomex facility in Yazoo City, Mississippi. This agreement provided that UST would clean-up the hazardous waste within two years.

12. In June 2013, a Second Agreed Order Amendment was executed. Pursuant to this Second Amendment, UST, through **RAYMOND WILLIAMS**, agreed to clean-up the hazardous waste at the Hyrdomex facility in Yazoo City, Mississippi before December 31, 2013.

13. Instead of properly cleaning the hazardous waste located in Yazoo City, Mississippi, **UST**, through **RAYMOND WILLIAMS**, began transporting the recovered hazardous waste from Yazoo City, Mississippi to **MGM's** faility, located in Franklin County, Missouri beginning on or about October 30, 2013.

14. At no time material to this Indictment did **UST**, or any of its employees possess a RCRA permit to transport hazardous waste to Missouri.

15. At no time material to this Indictment did **MGM**, or the facility located at 7627 Zero Rd., Berger, Missouri have a permit to treat, store, or dispose of hazardous waste under RCRA.

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)

16. The Solid Waste Disposal Act, 42 U.S.C. § 6901 et.seq.("the Act") as amended by RCRA, is the primary federal law regulating the generation, treatment, storage, and disposal of hazardous waste. 42 U.S.C. §§ 6901 *et.seq*. The objectives of the Act include, among other things, protection of human health and the environment through stringent guidelines that regulate the generation, treatment, storage, and disposal of hazardous waste. The Act accomplishes its objectives by creating a "cradle to grave" regulatory scheme to govern and track hazardous waste from the point of generation to final disposition in order to assure public safety.

17. RCRA requires any person generating, transporting, treating, storing or disposing hazardous waste to notify the United States Environmental Protection Agency ("EPA") or authorized state of that activity, and to identify the hazardous waste handled by such person. RCRA prohibits the treatment, storage and disposal of any listed or identified hazardous waste without a permit issued by EPA or an authorized state.

18. Under RCRA, a "hazardous waste" is a waste with properties that make it dangerous or capable of having a harmful effect on human health and the environment.

19. RCRA requires that the EPA identify and list solid wastes that meet the statutory definition of a hazardous waste. These identified and listed hazardous wastes are then subject to the regulations established by the EPA regarding the handling of such hazardous wastes. 42 U.S.C. § 6921.

20. In order to be regulated as a hazardous waste under RCRA, the material must first be a "solid waste." The term "solid waste," as used in the statute and the regulations promulgated thereunder, includes any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural activities. 42 U.S.C. § 6903(27) and 40 CFR § 261.2. Materials are considered solid wastes if they are either discarded or abandoned. Abandonment is defined by the regulations to include accumulation, storage or treatment in lieu of being abandoned or disposed. 40 CFR § 261.2. Additionally, under RCRA, a solid waste is defined to include any discarded material resulting from commercial operations. 42 U.S.C. § 6903(27).

21. A solid waste is considered hazardous under RCRA if it is either a specifically listed waste in the applicable regulations, or exhibits any of the following "characteristics": ignitability, corrosivity, reactivity or toxicity. The first category simply includes those wastes that are specifically listed in the Code of Federal Regulations. The second category (characteristic wastes) includes wastes that are not hazardous in and of themselves, but are classified as hazardous because of characteristics that make them a danger to health and human safety. Toxic hazardous wastes are wastes containing levels of certain contaminants, such as chromium, and cadmium, in excess of the limits set by the EPA. The regulatory limit for each of these contaminants are 1.0 mg/L for cadmium, and 5.0 mg/L for chromium. 40 C.F.R. § 261.24.

22. Once a waste is identified as hazardous, it is subject to the regulations promulgated under RCRA. Hazardous wastes may only be transported to, treated by, stored at, or disposed of at facilities which have received permits properly issued pursuant to RCRA to handle such wastes, or which are designated to have a proper interim status prior to the issuance of a permit

in accordance with RCRA. 42 U.S.C. §§ 6925 and 6926. These RCRA permits impose regulatory conditions specifically tailored and limited to the type of hazardous waste handling activity at that particular facility. The facility may only handle those hazardous wastes and perform those activities covered by its permit. 40 CFR Part 264. Similarly, facilities with interim status are subject to stringent regulations designed to provide protection for human health and the environment.

23. RCRA allows a State to apply for EPA authorization of the State's hazardous waste program. 42 U.S.C. § 6926(b). EPA has delegated the Missouri Department of Natural Resources to operate a hazardous waste program in lieu of the federal government's RCRA program. 40 CFR Part 272.

24. It is a violation of RCRA, 42 U.S.C. § 6928(d)(1), for any person to transport or cause to be transported any hazardous waste to a facility which does not have a permit issued under federal law or under authorized state law.

COUNT ONE
(Conspiracy)

25. On or about between October 30, 2013 and December 3, 2013, both dates being approximate and inclusive, in the Eastern District of Missouri,

U.S. TECHNOLOGY CORPORATION,
MISSOURI GREEN MATERIALS,
RAYMOND WILLIAMS,
DARYL DUNCAN, and
PENNY DUNCAN

the defendants, along with others known and unknown to the Grand Jury, did knowingly and unlawfully combine, conspire, and agree to violate RCRA as to the knowing transportation of hazardous waste without a permit in violation of Title 42, United States Code, Section 6928 (d)(1) and Title 18, United States Code, Section 2.

Overt Acts

During the course of, and in furtherance of the conspiracy, the following overt acts, among others, were committed:

a. In or about October 2013, **UST**, through **RAYMOND WILLIAMS**, entered into an agreement with **MGM**, through **DARYL DUNCAN** and **PENNY DUNCAN**, to send hazardous waste from the Hyrdomex site in Yazoo City, Mississippi, to a warehouse in Berger, Missouri.

b. On or about October 14, 2013, T.E., at the direction of **MGM**, through **DARYL DUNCAN**, sampled the material from Yazoo City, Mississippi and learned the material tested high for cadmium at 7.53mg/L (limit is 1.0mg/L). These test results were given to **DARYL DUNCAN** and shared with **RAYMOND WILLIAMS** prior to **MGM** and **UST** entering into an agreement to transport the hazardous waste.

c. On or about October 30, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 131,357 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

d. On or about October 31, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 170,130 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

e. On or about November 1, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 85,557 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

f. On or about November 4, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 44,115 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

g. On or about November 5, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 131,362 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

h. On or about November 6, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 43,574 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

i. On or about November 7, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 129,156 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

j. On or about November 8, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 300,600 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

k. On or about November 11, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 42,333 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

l. On or about November 12, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 81,141 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

m. On or about November 13, 2013 **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 85,890 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

n. On or about November 14, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 43,526 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

o. On or about November 15, 2013, UST, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 43,093 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

p. On or about November 18, 2013, UST through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 85,378 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

q. On or about November 18, 2013, **PENNY DUNCAN** sent an email to UST coordinating the shipment dates for the transportation of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

r. On or about November 20, 2013, UST, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 210,779 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

s. On or about November 21, 2013, UST, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 210,387 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

t. On or about November 22, 2013, UST, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 167,266 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri

u. On or about November 26, 2013, UST, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 44,000 pounds of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

v. On or about November 27, 2013, **PENNY DUNCAN** sent an email to UST coordinating the shipment dates for the transportation of hazardous waste from Yazoo City, Mississippi to MGM located in Berger, Missouri.

w. On or about December 2, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 44,000 pounds of hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

x. On or about December 3, 2013, **UST**, through **RAYMOND WILLIAMS**, caused the shipment by truck of approximately 85,269 pounds hazardous waste from Yazoo City, Mississippi to **MGM** located in Berger, Missouri.

y. **MGM**, through **DARYL DUNCAN** and **PENNY DUNCAN**, did not apply with the Missouri Department of Natural Resources to become a treatment, storage and/or disposal facility as required per RCRA.

z. In total, pursuant to the agreement between **UST, MGM, RAYMOND WILLIAMS, DARYL DUNCAN, and PENNY DUNCAN**, a total of approximately nine million pounds of hazardous waste was transported from Yazoo City, Mississippi to Berger, Missouri between October 30, 2013 to December 3, 2013.

All in violation of 18 U.S.C. §371.

COUNT TWO
(Transportation of Hazardous Waste)

The Grand Jury further charges:

26. The allegations contained in paragraphs 1-24 above are restated and incorporated herein by reference.

27. From on or about October 30, 2013, until on or about December 3, 2013, in Franklin County, in the Eastern District of Missouri,

RAYMOND WILLIAMS,
DARYL DUNCAN, and
PENNY DUNCAN

the defendants herein, did knowingly transport, and cause to be transported, super sacks containing hazardous waste from Yazoo City, Mississippi to Missouri Green Material's facility located in Berger, Missouri, within the Eastern District of Missouri, a facility which did not have a permit issued by the United States Environmental Protection Agency, or the State of Missouri, to treat, store, or dispose of such waste.

In violation of Title 42, United States Code, Section 6928(d)(1) and Title 18, United States Code, Section 2.

A TRUE BILL.

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FOREPERSON

CARRIE COSTANTIN
Acting United States Attorney

____
Dianna R. Collins, #59641MO
Assistant United States Attorney